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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Haseeb Akhtar, et al.
Serial No.: 10/590,624
Filed: May 14, 2007
For: METHOD AND APPARATUS FOR PROVIDING SPECIALIZED APPLICATIONS IN A NETWORK
Group No.: 2448
Examiner: Hamza N. Algibhah
Confirmation No.: 2298

MAIL STOP AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. This review is requested for the reasons stated in the arguments below, demonstrating the clear legal and factual deficiency of the rejections of some or all of the claims.

Claims 1-13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sayeedi (U.S. Patent Application Pub. No. 2004/0145999) in view of Bao (U.S. Patent Application Pub. No. 2004/0196826). Claims 22-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sayeedi and Bao, and further in view of Selvaggi (U.S. Patent Application Pub. No. 2004/0193709).

Claims 1-13:

For ease of reference, independent Claim 1 is reproduced below:

1. A method of operating a packet network, the method comprising:
processing a message in a standardized interface, the message including an indicia; and
identifying a packet application in response to the indicia.

The final Office Action argues that Sayeedi discloses processing a message in a standardized interface, and the “DRS bit” included in Sayeedi’s request message can be an indicia as claimed; but that Sayeedi does not disclose “identifying a packet application in response to the indicia.” Final Office Action, pp. 2-3. This missing element is allegedly disclosed by Bao, paragraph [0036], and it would be obvious to incorporate Bao’s teaching of identifying the application into Sayeedi because “this would have provided a way to optimize the system to process messages differently based on the application corresponding to the message. Id.

Applicants respectfully submit that Sayeedi and Bao cannot be properly combined (i.e., no teaching or suggestion, or rational underpinning to support the combination). Sayeedi’s alleged “indicia,” according to paragraph [0005], is the “Data Ready to Send (DRS) indicator” that is used in an A10 connection at call origination to transition from a Dormant state to an Active state. Applicants are unsure how setting the DRS bit in Sayeedi can be perceived, or can indicate, the identity of a particular packet application. Apparently, the Office Action appears to believe these two functions – (1) identifying data ready to send at call origination and (2) identifying a particular packet application – can be performed by the DRS bit of Sayeedi. Applicants respectfully disagree. It appears quite clear that in Sayeedi’s specific call origination message, if the DRS bit must be set (e.g. to a “one”), this bit cannot also function to identify a particular packet application.

In addition, if Bao's alleged response was combined with the Sayeedi configuration, the call would not be processed properly and/or the Bao response would be meaningless in the Sayeedi environment. If the particular packet application is identified by a "zero" and the DRS bit must be set to "one", the system would not function as intended. Likewise, if Sayeedi's alleged "indicia" was incorporated into the Bao system, it would not recognize the indicia and/or Sayeedi's indicia would render the Bao system inoperable for its intended purpose. Thus, Sayeedi and Bao cannot be properly combined.

The final Office Action merely identifies each of the elements/features recited in the claim in separate prior art references and concludes without rational reasoning that they can or should be combined. Such a legal test for obviousness is inappropriate.

Accordingly, Applicants respectfully request withdrawal of the § 103(a) rejection of Claims 1-13.

Claims 22-25:

For ease of reference, independent Claim 22 is reproduced below:

22. (New) A method of operating a packet network, the method comprising:
processing a message in a standardized interface, the message including an indicia indicating a packet application to be transported across the interface;
identifying the packet application in response to the indicia;
distinguishing a first type of content in the packet application from a second type of content in the packet application; and
treating the first type of content differently from the second type of content.

The final Office Action asserts that the first two main elements are found in the Sayeedi-Bao combination, and the third and fourth main elements are disclosed by Selvaggi. Applicants respectfully disagree.

First, for the same or similar reasons set forth above, the proposed combination of Sayeedi and Bao does not disclose, teach or suggest the first two main elements.

With respect to Selvaggi, the final Office Action points to paragraph [0054] as disclosing (1) distinguishing a first type of content in the packet application from a second type of content, and (2) treating the first type of content differently from the second type of content. Final Office Action, pp. 7-8. Again, Applicant respectfully disagrees. Selvaggi teaches that, when performing diagnostics and testing of network performance, simulated VOIP packets should be used “because routers may treat packets differently depending on their payload.” Selvaggi, paragraph [0054]. Applicants submit that testing and diagnostics are not a packet application. Though VOIP is a packet application, there appears no disclosure in paragraph [0054] that Selvaggi treats two different types of content in the simulated VOIP packets differently or that Selvaggi can distinguish between two different types of VOIP packets. In addition, Applicants submit that Selvaggi is non-analogous art as it is focused on diagnostics and testing of network performance – not identifying a packet application based on information in a standardized message.

Accordingly, Applicants respectfully request withdrawal of the § 103(a) rejection of Claims 22-25.

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SERIAL NO. 11/450,499

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The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Nortel Networks Deposit Account No. 14-1315.

Respectfully submitted,

MUNCK CARTER, LLP

Date: _____

7/18/2011

A handwritten signature in cursive script, appearing to read "Robert D. McCutcheon", written over a horizontal line.

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